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TIMOTHY N TROP
TROP PRUNER HU & MILES P C
8554 KATY FREEWAY
SUITE 100
HOUSTON, TX 77024

EXAMINER

DELA TORRE, CRESCELLE N

ART UNIT PAPER NUMBER

2174

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 10

Application Number: 09/409,330
Filing Date: September 30, 1999
Appellant(s): CASSEZZA, JASON T.

Timothy N. Trop
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 30, 2002.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief contains a statement indicating that there are no related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The statement of the status of amendments is incorrect. No amendment after final has been filed. Rather, a request for reconsideration after final was filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The Appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The Appellant's statement that the "claims may be grouped with claim 1" is not agreed with because independent claim 19 does not disclose "obtaining an indicia of the volume level of audio information received by said system" as in claim 1. It is presumed

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that claims 1-18 stand or fall together in a first group, and that claims 19-26 stand or fall together in a second group.

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

5,191,620	LEE	3-1993
6,067,084	FADO ET AL	5-2000

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

(a) Claims 1-20, 23, 25, and 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Lee (U.S. patent 5,191,620).

As per claim 1, Lee teaches a method for "controlling volume level of sound for a display" comprising:

obtaining an indicia of the volume level of audio received by the system, with the input discrimination step 11, at figure 2, and column 2, lines 35-37;

comparing the indicia to a preset level, with the maximum-discrimination step 13 or minimum-discrimination step 16, at figure 2; and

automatically adjusting the volume level towards the preset level, with the bar-increment step 12, and bar-decrement step 15, at figure 2.

As to claim 2, Lee teaches a high volume preset level, with a maximum level, at step 13, and a low volume preset level, with a minimum level, at step 16, and adjusting the volume level to a level between the high and low levels, with the bar-increment step 12, or bar-decrement step 15, at figure 2.

Regarding claim 3, Lee teaches receiving and using audio from a remote control unit, by "receiving a key-input of a transmitter 1" at figure 1.

In reference to claim 4, Lee teaches a graphical user interface, with on-screen display at figures 3(A), 3(A'), and allowing a user to input the preset level, at column 2, lines 32-34.

As to claim 5, Lee teaches generating sounds of increasing volume and receiving a user selection of a desired volume level, at column 2, lines 37-38.

As per claim 6, Lee describes correlating a time period when user selection was received, with step 19, at figure 2, and recording the volume level, with steps 14, 17, also at figure 2.

Regarding claim 7, Lee teaches adjusting the volume level when the volume level exceeds the preset level, with steps 13, 16, at figure 2.

In addition, Lee teaches a remote control unit [claim 8] at a location remote from the system [claim 9] with transmitter 1, at figure 1.

Claims 10-17 correspond respectively to claims 1-8.

As to claim 18, Lee teaches producing sounds of decreasing volume until the user has selected the preset volume level, at column 2, lines 48-52.

As per claim 19, Lee teaches a processor, storage, and sound generating circuit, at figure 1, and software to control the generated sound in accordance with a preset volume limit, with the input discrimination routine 100, at figure 2.

Lee shows a transceiver and a remote control unit [claim 20] with transmitter 1, at figure 1.

Claims 23 and 25 are respectively similar to claims 4 and 2.

As to claim 26, Lee provides for increasing or reducing the volume level near the minimum and maximum values, at figure 2.

(b) Claims 21, 22, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lee (U.S. patent 5,191,620) in view of Fado et al (U.S. patent 6,067,084).

As to claim 21, Lee does not teach a microphone for receiving sounds generated by a sound generating circuit. However, the use of microphones for receiving generated sounds are known in the art. For instance, Fado et al, hereinafter Fado, teach configuring microphones in an audio interface, with a "first graphical user interface prompting user selection and connection of a microphone" at column 3, lines 5-9. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a microphone in the invention of Lee as in Fado because it provides an alternative means for receiving audio information.

As to claim 22, Lee teaches communication signals, at figure 1.

Regarding claim 24, Lee teaches generating time-spaced tones and selecting a tone volume, at column 3, lines 1-10.

(11) Response to Argument

As per claim 1, Appellant's primary argument regarding the Lee reference is that Lee does not teach "obtaining an indicia of the volume level of audio information received by said system".

Appellant argues that "all that the system [of Lee] receives is the user command to increase or decrease the volume; the system does not receive any information about what is the base volume level of a received signal". However, Appellant does not claim receiving information about the "base volume level of a received signal". Rather, Appellant claims obtaining an indicia of the volume level of the received audio information.

An "indicia" is an identifying mark, indicator, or value. Lee teaches obtaining an indicia of the received volume level, with step 11, at figure 2, and column 2, lines 35-37, wherein the obtained indicia is the received key-input signal, or level value. The preset level to which the level value is compared and adjusted towards, is the maximum or minimum value, shown in steps 13, 16, at figure 2, and column 2, lines 40-43, 52-55.

As noted by Appellant, in the system of Lee "if the user attempts to increase by an amount that exceeds the maximum or to decrease by an amount that exceeds the minimum, the system simply blocks such excursions". Thus, the system of Lee controls the sound generated to be within a pre-set volume limit as in claim 19.


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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


CRÉSCELLE N. DELA TORRE
PRIMARY EXAMINER

Conferees:


RAYMOND J. BAYERL
PRIMARY EXAMINER
ART UNIT 2173


Primary Examiner
AU 2173

TIMOTHY N TROP
TROP PRUNER HU & MILES P C
8554 KATY FREEWAY
SUITE 100
HOUSTON, TX 77024